

Introduced by Senator HollingsworthFebruary 8, 2010

An act to amend Section 1861.02 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 983, as introduced, Hollingsworth. Insurance: rates.

Existing law requires the rates and premiums for an automobile insurance policy to be determined by application of specified factors.

This bill would make technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1861.02 of the Insurance Code is
2 amended to read:
3 1861.02. (a) Rates and premiums for an automobile insurance
4 policy, as described in subdivision (a) of Section 660, shall be
5 determined by application of the following factors in decreasing
6 order of importance:
7 (1) The insured's driving safety record.
8 (2) The number of miles he or she drives annually.
9 (3) The number of years of driving experience the insured has
10 had.
11 (4) Those other factors that the commissioner may adopt by
12 regulation and that have a substantial relationship to the risk of
13 loss. The regulations shall set forth the respective weight to be

1 given each factor in determining automobile rates and premiums.
2 Notwithstanding any other provision of law, the use of any criterion
3 without approval shall constitute unfair discrimination.

4 (b) (1) ~~Every~~*Each* person who meets the criteria of Section
5 1861.025 shall be qualified to purchase a Good Driver Discount
6 policy from the insurer of his or her choice. An insurer shall not
7 refuse to offer and sell a Good Driver Discount policy to~~any a~~
8 person who meets the standards of this subdivision.

9 (2) The rate charged for a Good Driver Discount policy shall
10 comply with subdivision (a) and shall be at least ~~20%~~ *20 percent*
11 below the rate the insured would otherwise have been charged for
12 the same coverage. Rates for Good Driver Discount policies shall
13 be approved pursuant to this article.

14 (3) (A) This subdivision shall not prevent a reciprocal insurer,
15 organized prior to November 8, 1988, by a motor club holding a
16 certificate of authority under Chapter 2 (commencing with Section
17 12160) of Part 5 of Division 2, and which requires membership in
18 the motor club as a condition precedent to applying for insurance
19 from requiring membership in the motor club as a condition
20 precedent to obtaining insurance described in this subdivision.

21 (B) This subdivision shall not prevent an insurer which requires
22 membership in a specified voluntary, nonprofit organization, ~~which~~
23 *that* was in existence prior to November 8, 1988, as a condition
24 precedent to applying for insurance issued to or through those
25 membership groups, including franchise groups, from requiring
26 such membership as a condition to applying for the coverage
27 offered to members of the group, provided that it or an affiliate
28 also offers and sells coverage to those who are not members of
29 those membership groups.

30 (C) However, all of the following conditions shall be applicable
31 to the insurance authorized by subparagraphs (A) and (B):

32 (i) Membership, if conditioned, is conditioned only on timely
33 payment of membership dues and other bona fide criteria not based
34 upon driving record or insurance, provided that membership in a
35 motor club may not be based on residence in any area within the
36 state.

37 (ii) Membership dues are paid solely for and in consideration
38 of the membership and membership benefits and bear a reasonable
39 relationship to the benefits provided. The amount of the dues shall
40 not depend on whether the member purchases insurance offered

1 by the membership organization. None of those membership dues
2 or any portion thereof shall be transferred by the membership
3 organization to the insurer, or any affiliate of the insurer,
4 attorney-in-fact, subsidiary, or holding company thereof, provided
5 that this provision shall not prevent any bona fide transaction
6 between the membership organization and those entities.

7 (iii) Membership provides bona fide services or benefits in
8 addition to the right to apply for insurance. Those services shall
9 be reasonably available to all members within each class of
10 membership.

11 Any insurer that violates clause (i), (ii), or (iii) shall be subject
12 to the penalties set forth in Section 1861.14.

13 (c) The absence of prior automobile insurance coverage, in and
14 of itself, shall not be a criterion for determining eligibility for a
15 Good Driver Discount policy, or generally for automobile rates,
16 premiums, or insurability. However, notwithstanding subdivision
17 (a), an insurer may use persistency of automobile insurance
18 coverage with the insurer, an affiliate, or another insurer as an
19 optional rating factor. The Legislature hereby finds and declares
20 that it furthers the purpose of Proposition 103 to encourage
21 competition among carriers so that coverage overall will be priced
22 competitively. The Legislature further finds and declares that
23 competition is furthered when insureds are able to claim a discount
24 for regular purchases of insurance from ~~any~~ a carrier offering this
25 discount irrespective of whether or not the insured has previously
26 purchased from a given carrier offering the discount. Persistency
27 of coverage may be demonstrated by coverage under the low-cost
28 automobile insurance program pursuant to Article 5.5 (commencing
29 with Section 11629.7) ~~and Article 5.6 (commencing with Section~~
30 ~~11629.9)~~ of Chapter 1 of Part 3 of Division 2, or by coverage under
31 the assigned risk plans pursuant to Article 4 (commencing with
32 Section 11620) of Chapter 1 of Part 3 of Division 2. Persistency
33 shall be deemed to exist even if there is a lapse of coverage of up
34 to two years due to an insured's absence from the state while in
35 military service, and up to 90 days in the last five years for any
36 other reason.

37 (d) An insurer may refuse to sell a Good Driver Discount policy
38 insuring a motorcycle unless all named insureds have been licensed
39 to drive a motorcycle for the previous three years.

- 1 ~~(e) This section shall become operative on November 8, 1989.~~
- 2 ~~The commissioner shall adopt regulations implementing this~~
- 3 ~~section and insurers may submit applications pursuant to this article~~
- 4 ~~which comply with those regulations prior to that date, provided~~
- 5 ~~that no such application shall be approved prior to that date.~~